

Union Calendar No. 573

110TH CONGRESS
2D SESSION

H. R. 1497

[Report No. 110–882]

To amend the Lacey Act Amendments of 1981 to extend its protections to plants illegally harvested outside of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2007

Mr. BLUMENAUER (for himself, Mr. WEXLER, and Mr. WELLER of Illinois) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 24, 2008

Additional sponsors: Mr. DEFazio, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. GRIJALVA, Ms. SOLIS, Mr. HINCHEY, Mrs. MALONEY of New York, Mr. McDERMOTT, Mr. LANTOS, Mr. MORAN of Virginia, Mr. WYNN, Mr. CUMMINGS, Mr. GEORGE MILLER of California, Ms. WATSON, Ms. MCCOLLUM of Minnesota, Mr. HONDA, Mr. OBEY, Ms. SUTTON, Ms. SCHAKOWSKY, Mr. KIND, Mr. INSLEE, Mr. FARR, Mr. BERMAN, Mr. KUCINICH, Mr. PAYNE, Mrs. CAPPS, Mr. BAIRD, Mr. BACA, Mr. HARE, Mr. HOLDEN, Mr. KILDEE, Mr. SHULER, Mr. ROSS, Mr. EHLERS, Mr. GILCHREST, Ms. NORTON, Mr. VAN HOLLEN, Ms. MATSUI, Mr. BARRETT of South Carolina, Mr. GERLACH, Mr. HOLT, Ms. HOOLEY, Mr. UDALL of Colorado, Ms. BORDALLO, Mr. WALDEN of Oregon, Mr. NADLER, Mr. DOGGETT, Mr. WU, Ms. ESHOO, Mr. FILNER, Mr. TOWNS, Mr. RENZI, Mr. SERRANO, Mr. GOODE, Mr. ROTHMAN, Mr. SIRES, Mr. STUPAK, Mr. MARKEY, Mr. GUTIERREZ, Mr. FRANK of Massachusetts, Mr. ROGERS of Kentucky, Mr. INGLIS of South Carolina, Mr. SESTAK, Mr. KAGEN, and Mr. ELLISON

SEPTEMBER 24, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 13, 2007]

A BILL

To amend the Lacey Act Amendments of 1981 to extend its protections to plants illegally harvested outside of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Legal Timber Protection*
5 *Act”.*

6 **SEC. 2. PREVENTION OF ILLEGAL LOGGING PRACTICES.**

7 *(a) IN GENERAL.—The Lacey Act Amendments of*
8 *1981 are amended—*

9 *(1) in section 2 (16 U.S.C. 3371)—*

10 *(A) by striking subsection (f) and inserting*
11 *the following:*

12 *“(f) PLANT.—*

13 *“(1) IN GENERAL.—The term ‘plant’ means any*
14 *wild member of the plant kingdom, including roots,*
15 *seeds, parts, and products thereof.*

16 *“(2) EXCLUSIONS.—The term ‘plant’ excludes*
17 *any common food crop or cultivar that is a species*
18 *not listed—*

1 “(A) in the Convention on International
2 Trade in Endangered Species of Wild Fauna
3 and Flora (27 UST 1087; TIAS 8249); or

4 “(B) as an endangered or threatened species
5 under the Endangered Species Act of 1973 (16
6 U.S.C. 1531 et seq.).”;

7 (B) in subsection (h), by inserting “also”
8 after “plants the term”; and

9 (C) by striking subsection (j) and inserting
10 the following:

11 “(j) TAKE.—The term ‘take’ means—

12 “(1) to capture, kill, or collect; and

13 “(2) with respect to a plant, also to harvest, cut,
14 log, or remove.”;

15 (2) in section 3 (16 U.S.C. 3372)—

16 (A) in subsection (a)—

17 (i) in paragraph (2), by striking sub-
18 paragraph (B) and inserting the following:

19 “(B) any plant—

20 “(i) taken, transported, possessed, or
21 sold in violation of any law or regulation
22 of any State, or any foreign law, that pro-
23 tects plants or that regulates—

24 “(I) the theft of plants;

1 “(II) the taking of plants from a
2 park, forest reserve, or other officially
3 protected area;

4 “(III) the taking of plants from
5 an officially designated area; or

6 “(IV) the taking of plants with-
7 out, or contrary to, required authoriza-
8 tion;

9 “(ii) taken, transported, or exported
10 without the payment of appropriate royal-
11 ties, taxes, or stumpage fees required for
12 such plant by any law or regulation of any
13 State or by any foreign law; or

14 “(iii) exported or transshipped in vio-
15 lation of any limitation under any law or
16 regulation of any State or under any for-
17 eign law; or”; and

18 (ii) in paragraph (3), by striking sub-
19 paragraph (B) and inserting the following:
20 “(B) to possess any plant—

21 “(i) taken, transported, possessed, or
22 sold in violation of any law or regulation
23 of any State, or any foreign law, that pro-
24 tects plants or that regulates—

25 “(I) the theft of plants;

1 “(II) the taking of plants from a
2 park, forest reserve, or other officially
3 protected area;

4 “(III) the taking of plants from
5 an officially designated area; or

6 “(IV) the taking of plants with-
7 out, or contrary to, required authoriza-
8 tion;

9 “(ii) taken, transported, or exported
10 without the payment of appropriate royal-
11 ties, taxes, or stumpage fees required for
12 such plant by any law or regulation of any
13 State or by any foreign law; or

14 “(iii) exported or transshipped in vio-
15 lation of any limitation under any law or
16 regulation of any State or under any for-
17 eign law; or”; and

18 (B) by adding at the end the following:

19 “(f) *PLANT DECLARATIONS.*—

20 “(1) *IN GENERAL.*—Effective 180 days from the
21 date of enactment of this subsection and except as
22 provided in paragraph (3), it shall be unlawful for
23 any person to import any plant unless the person
24 files upon importation where clearance is requested a
25 declaration that contains—

1 “(A) the scientific name of any plant (in-
2 cluding the genus and species of the plant) con-
3 tained in the importation;

4 “(B) a description of—

5 “(i) the value of the importation; and

6 “(ii) the quantity, including the unit
7 of measure, of the plant; and

8 “(C) the name of the country from which
9 the plant was taken.

10 “(2) *DECLARATION RELATING TO PLANT PROD-*
11 *UCTS.—Until the date on which the Secretary pro-*
12 *mulgates a regulation under paragraph (6), a dec-*
13 *laration relating to a plant product shall—*

14 “(A) in the case in which the species of
15 plant used to produce the plant product that is
16 the subject of the importation varies, and the
17 species used to produce the plant product is un-
18 known, contain the name of each species of plant
19 that may have been used to produce the plant
20 product; and

21 “(B) in the case in which the species of
22 plant used to produce the plant product that is
23 the subject of the importation is commonly taken
24 from more than 1 country, and the country from
25 which the plant was taken and used to produce

1 the plant product is unknown, contain the name
2 of each country from which the plant may have
3 been taken.

4 “(3) *EXCLUSIONS.*—Paragraphs (1) and (2)
5 shall not apply to plants used exclusively as pack-
6 aging material to support, protect, or carry another
7 item, unless the packaging material itself is the item
8 being imported.

9 “(4) *REVIEW.*—Not later than 2 years after the
10 date of enactment of this subsection, the Secretary
11 shall review the implementation of each requirement
12 described in paragraphs (1) and (2) and the effect of
13 the exclusions in paragraph (3).

14 “(5) *REPORT.*—

15 “(A) *IN GENERAL.*—Not later than 180
16 days after the date on which the Secretary com-
17 pletes the review under paragraph (4), the Sec-
18 retary shall submit to the appropriate commit-
19 tees of Congress a report containing—

20 “(i) an evaluation of—

21 “(I) the effectiveness of each type
22 of information required under para-
23 graphs (1) and (2) in assisting enforce-
24 ment of section 3; and

1 “(II) the potential to harmonize
2 each requirement described in para-
3 graphs (1) and (2) with other applica-
4 ble import regulations in existence as
5 of the date of the report;

6 “(ii) recommendations for such legisla-
7 tion as the Secretary determines to be ap-
8 propriate to assist in the identification of
9 plants that are imported into the United
10 States in violation of section 3; and

11 “(iii) an analysis of the effect of the
12 provisions of subsection (a) and (f) on—

13 “(I) the cost of legal plant im-
14 ports; and

15 “(II) the extent and methodology
16 of illegal logging practices and traf-
17 ficking.

18 “(B) PUBLIC PARTICIPATION.—In con-
19 ducting the review under paragraph (3), the Sec-
20 retary shall provide public notice and an oppor-
21 tunity for comment.

22 “(6) PROMULGATION OF REGULATIONS.—Not
23 later than 180 days after the date on which the Sec-
24 retary completes the review under paragraph (4), the
25 Secretary may promulgate regulations—

1 “(A) to limit the applicability of any re-
 2 quirement described in paragraph (2) to specific
 3 plant products;

4 “(B) to make any other necessary modifica-
 5 tion to any requirement described in paragraph
 6 (2), as determined by the Secretary based on the
 7 review under paragraph (4); and

8 “(C) to limit the scope of exclusion in para-
 9 graph (3) if warranted as a result of the review
 10 under paragraph (4).”;

11 (3) in section 7(a)(1) (16 U.S.C. 3376(a)(1)), by
 12 striking “section 4” and inserting “section 3(f), sec-
 13 tion 4,”;

14 (4) in section 4 (16 U.S.C. 3373)—

15 (A) by striking “subsections (b) and (d)”
 16 each place it appears and inserting “subsections
 17 (b), (d), and (f)”;

18 (B) by inserting “or section 3(f)” after “sec-
 19 tion 3(d)” each place it appears; and

20 (C) in subsection (a)(2), by inserting “or
 21 who violates subsection 3(f) other than as pro-
 22 vided in paragraph (1)” after “subsection 3(b)”;
 23 and

24 (5) by adding at the end of section 5 (16 U.S.C.
 25 3374) the following:

1 “(d) *CIVIL FORFEITURES*.—*Civil forfeitures under this*
2 *section shall be governed by the provisions of chapter 46*
3 *of title 18, United States Code.*”.

4 (b) *TECHNICAL CORRECTION*.—

5 (1) *CORRECTION*.—*Section 102(c) of Public Law*
6 *100–653 is amended—*

7 (A) *by inserting “of the Lacey Act Amend-*
8 *ments of 1981” after “Section 4”; and*

9 (B) *by striking “(other than section 3(b))”*
10 *and inserting “(other than subsection 3(b))”.*

11 (2) *EFFECTIVE DATE*.—*Paragraph (1) shall be*
12 *effective immediately upon the effectiveness of section*
13 *102(c) of Public Law 100–653.*

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